

Datsopoulos, MacDonald & Lind, P.C.

Attorneys at Law

Milton Datsopoulos
Dennis E. Lind
William K. VanCanagan
Rebecca L. Summerville
David B. Cotner
William V. Ballew III*
Darla J. Keck
Terance P. Perry^

Central Square Building
201 W. Main Street, Suite 201
Missoula, MT 59802

Phone: 406.728.0810
Fax: 406.543.0134
www.dmlaw.com

Ronald B. MacDonald (1946-2002)

Molly K. Howard
Phil McCreedy
Trent N. Baker
Erika R. Peterman
Del M. Post
Peter F. Lacny
* Matthew A. Baldassin
Joslin E. Monahan
Alex Beal

* Also admitted in New Mexico & Texas
^ Also admitted in Washington
^ Also admitted in Massachusetts

September 3, 2008

Via First Class Mail

Mr. George Corn, Esq.
Ravalli County Attorney
Ravalli County Courthouse
205 Bedford, Suite C
Hamilton, Montana 59840-2853

Re: Citizens Right to Vote Initiative
Our Client: Citizens for Property Rights (CPR)
Our File No.: 20176.001

Dear Mr. Corn:

I received your correspondence of August 25, 2008 in response to my requests for information on the status of the Citizens Rights to Vote Initiative. I must admit that I was disappointed with the tone of your correspondence, as I was disappointed with your choice not to return any of my calls. Before I went to work for you, I represented clients whose interests were adverse to yours, just as my firm does now. I made every effort to be polite and professional then, just as I do now. I sense that you view CPR as being adverse to the County or to you, and you are wrong to do so. I believe an unnecessarily adversarial culture permeates Ravalli County these days, but it does not have to be that way. Until some of that divisiveness is healed, no zoning proposal (no matter how minimal or restrictive) will find broad acceptance.

I am also in receipt of your August 29, 2008 memorandum to Ms. Plettenberg. I found most of your required corrections to be quite simple and reasonable. However, the second bullet point under number 5 was a notable exception. You stated that "the tenth paragraph contains a potentially misleading summary of the law in that what is termed COUNTY ZONING also already requires the affirmative consent of the majority of those land owners zoned." I also note from Ms. Plettenberg that even though you stated in your correspondence to her that you "suggest" that change, you are now interpreting that language to be mandatory. So as not to subject this resolution to what I expect would be another 21 days incommunicado, I have advised my clients and Mr. Chilcott to accept all of your mandatory suggestions. That said, your comments on paragraph ten suggest to me that you do not understand the purpose of this resolution, and in fact much of the unhappiness with the zoning process as it is taking place.

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Part 2 zoning does not require the affirmative consent of those zoned. Upon passage by the County Commissioners, it becomes effective unless there is sufficient affirmative protest. While the Commissioners are required to hold a public hearing and listen to the comments of everyone who attends the meeting, they are required to "not have a fundamentally closed mind" while they listen, but nothing more. More to the point, there is a significant and fundamental difference between the right to lobby the government for an action and the requirement that it does not happen unless you vote for it. I believe it was Commissioner Thompson who stated at the County Commissioner's hearing on this matter that the right to vote on zoning had taken on a life of its own and was becoming the larger issue. In many ways it is an argument far more passionate than the argument about whether to have zoning or what zoning should look like. Quite frankly this is not the least bit surprising to me. A great many citizens in Ravalli County, on the left, on the right, and in the center, are skeptical that county government has their best interests at heart. Once distrust of that magnitude develops, it does not dissipate of its own accord. The fact then that a majority of Commissioners continue to refuse the citizens a vote on the final zoning product only reinforces this. Those Commissioners also appear to have a fundamental misunderstanding of what this issue is about.

The current promise of a vote on a zoning regulation, many moons after the date of adoption, is unlikely to placate this desire for participation either. While many people who voted for "1 per 2" certainly understood and intended it to be a mandate to study zoning, it was not a blank check to adopt any form of zoning that a set of Commissioners (a majority of whom were not then elected) would divine. To analogize, voting to study zoning was a bit like hiring a contractor to submit a bid for a house. Right now, the suggestion is that citizens wait until the house has been built (for up to 2 years) before getting to give binding input on the design and the cost. While this might be how the government would build a house, it is not what the citizens want.

The Commissioners also seem unable to differentiate the right to vote from two other matters, the petition to repeal the growth policy, and a request from some citizens to "vote themselves out of zoning" like the Darby school district did. These could not have less to do with each other. Both of those matters involve citizens asking to stop zoning. There is an outlet available to those people who wish to stop zoning, the petition to repeal the growth policy, which will be on the November 4, 2008 ballot. Those people who do not want any form or type of zoning will certainly vote for that. The proponents of this resolution are not interested in stopping all zoning; they are interested in citizens having the right to vote on zoning. If stopping all zoning was their goal, they would merely campaign for the growth policy repeal. It would certainly be a much simpler, easier method.

I feel I must also address the superfluous and inappropriate section of your correspondence which begins with the last paragraph of page 2. As I assumed you were aware, Montana Code Annotated § 7-5-137 is the beginning and the end of any discussion on whether a resolution can be repealed. "If an ordinance is ... enacted pursuant to a proposal initiated by the electors of a local government, the local governing body may not for 2 years...repeal the ordinance." You correctly note that in this context ordinance and resolution are synonyms. If approved by the voters, this resolution will be binding on the Commissioners for two years, and then will have no effect greater than that of any other Commissioner resolution, meaning that it may be repealed at any time. This no more binds a future board of commissioners than any other action. Of course, should the citizens of Ravalli County decide to vote away the right to vote on zoning resolutions, they could do that at any time. Finally, if the citizens wished to extend this resolution for an additional 2 years, they could do so by placing the matter on the ballot again and approving it.

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The inappropriate part was your heavy-handed attempt to imply that Mr. Chilcott is in cahoots with people to sue the County. On the contrary, it is a sad day when the only way an elected official can provide citizens the relief they are so loudly clamoring for, on the most important matter in the County in recent memory, is to accept the request from a non-profit group to place a resolution on the ballot. Yes, there are members of Citizens for Property Rights who have brought suit against the County regarding subdivision denials. There are also ranchers, small business people, and regular Bitterrooters who are the heart and soul of this valley. Let's be balanced about this. Mr. Brandborg has sued the County on multiple occasions, and Phil Taylor tried to have both of us disbarred. I do not recall either of those tidbits ever making it into your legal reviews. You're better than that, and Ravalli County deserves better than that.

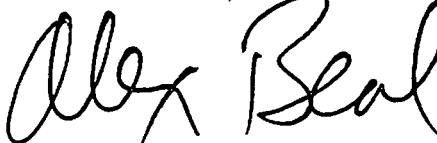
Sadly, this seems to be getting in the way of more important matters. This petition is probably the last, best hope for the future of Ravalli County's growth policy. This valley-wide dissatisfaction requires an outlet. Without the knowledge that they will have the right to vote on any zoning proposal, I fear that many citizens may vote to repeal the growth policy, even though they are not "anti-zoning." I would have hoped that Commissioners who ran on a platform of planning and zoning would appreciate this and work towards it. What is going on when "citizens whose subdivisions have been turned down and who have sued the County, as well as the lawyers who represent them," have to fight the "pro-planning" commissioners to save zoning?

All of this makes my clients, Citizens for Property Rights, Inc., confused and concerned. I cannot blame them. I anticipate that they will be taking steps to investigate this matter further. For your information, I am enclosing the correspondence I sent to Mr. Chilcott on behalf of Citizens for Property Rights, Inc., requesting that he "carry" this petition for them.

Again, if you had taken or returned one of my many calls, your seemingly lengthy chase after the red herring of "repealability" could have been prevented.

Sincerely,

DATSOPOULOS, MacDONALD & LIND, P.C.

A handwritten signature in black ink, appearing to read "Alex Beal". The signature is fluid and cursive, with the first name "Alex" and the last name "Beal" clearly distinguishable.

Alex Beal, Esq.

AB/ksh
Enclosure as stated.

Cc: Ravalli County Commissioners
Regina Plettenberg, Clerk & Recorder
Mr. Dallas Erickson, CPR
Mr. Greg Chilcott

Datsopoulos, MacDonald & Lind, P.C.

Attorneys at Law

Milton Datsopoulos
Dennis E. Lind
William K. VanCanagan
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- * Also admitted in New Mexico & Texas
- ♦ Also admitted in Washington
- ^ Also admitted in Massachusetts

August 1, 2008

Via US Mail

Mr. Greg Chilcott
346 Valley View St.
Stevensville, MT 59870

Re: Citizens for Property Rights, Inc.
Zoning Vote Petition
Our File No. 20176.001

Dear Greg:

Thank you so much for meeting with me yesterday to discuss the potential Ravalli County initiative requiring that any permanent county-wide zoning be put to a vote of the people.

As I mentioned, my firm represents a nonprofit organization, Citizens for Property Rights, Inc. They are a recently formed group with grave concerns over the erosion of private property rights in the Bitterroot Valley (specifically) and Montana in general. It is their desire to inform and educate the public as to the historic bases of these important rights, as well as the potential consequences of taking these rights for granted. Recently, they have noticed, and been deeply concerned by, actions of the Board of County Commissioners. A government that adamantly refuses to let its citizens vote on a matter of grave importance is not a government that engenders confidence from its citizens.

I know that I personally have been impressed by your ongoing stand in favor of a citizen vote on a final zoning proposal. Though obviously not legal advice, I had often suggested to the Commission that placing this matter on the ballot would be both good politics and good government. Unfortunately, as you are well aware, those suggestions fell on deaf ears with three of your colleagues. With apologies to Abraham Lincoln, they seem to feel that some of the people voting to consider some type of zoning is the same as all of the people supporting all of the zoning. In any event, the members of Citizens for Property Rights have acted on their concerns and drafted the enclosed proposed ballot language and resolution which would require a vote before any county-wide zoning took effect.

The brave and unequivocal stand you have taken on this issue, even when a majority of the Commission so adamantly opposed it, has not gone unnoticed. As a 501(c)(6) nonprofit organization,

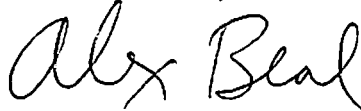
Citizens for Property Rights obviously cannot, and does not, endorse you or any other candidate. Still, they would be honored if you would agree to submit this petition to the Clerk and Recorder for consideration. Just as Citizens for Property Rights is not endorsing you, they certainly do not ask that you endorse them in any way either. Agreeing to turn in this petition is, in their minds, akin to a legislator agreeing to carry a bill. It would not make you a member of the organization, nor would you be expected to join or have any further dealings. I acknowledge that you have not had a chance to research this organization's founding or operations, but I do not think that will be necessary for the limited purpose of this involvement.

In terms of the effort required to gather the signatures to place this matter on the ballot, your help is certainly welcomed, though not expected. A Political Action Committee (or similar entity) will be formed to oversee the funding and operations of this ballot measure campaign. I do not expect that there will be any particular difficulty in amassing the necessary signatures to place this measure on the ballot. It is unfortunate that three of your colleagues are so out of step with the citizens of Ravalli County, but hopefully when they see that so many people are boldly asserting their right to vote on important matters, they will see the error of their ways.

I hope that all is well with you and your family and I wish you the best of luck in all of your endeavors.

Warmest regards,

DATSOPOULOS, MacDONALD & LIND, P.C.

A handwritten signature in cursive script that reads "Alex Beal".

Alex Beal, Esq.

AB/pe
Enclosures as stated.

C: Dallas Erickson, President, Citizens for Property Rights, Inc.